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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/583,797	05/31/2000	Rosario A. Uceda-Sosa	POU9-2000-0018-US1	9330
46369	7590	06/26/2006	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI P.C.			VO, LILIAN	
5 COLUMBIA CIRCLE			ART UNIT	
ALBANY, NY 12203			PAPER NUMBER	
			2195	
DATE MAILED: 06/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/583,797

Applicant(s)

UCEDA-SOSA ET AL.

Examiner

Lilian Vo

Art Unit

2195

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1 - 33, 36 - 47 and 49 - 51.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____

SUBMITTED BY EXAMINER



Lilian Vo
Examiner
Art Unit: 2195

Continuation of 11. does NOT place the application in condition for allowance because: the rejection was deemed proper. Applicant's arguments have been fully considered but they are not persuasive for the reasons set forth below.

1. Regarding applicant's argument that Lehman fails to describe, teach or suggest the determining whether the relationship between one resource and another resource of a data is a containment-based relationship or whether the relationship is reference-based relationship, the examiner disagrees. Lehman discloses the step on page 663, paragraphs 14 - 15.
2. Regarding applicant's argument that Lehman fails to describe, teach or suggest the different types of relationships, the examiner disagrees. Lehman discloses the resources having a reference-based relationship in fig. 7 and page 657, paragraph 4, page 663, paragraph 15 and a containment-based relationship in fig. 7 and page 657, paragraph 4, page 663, paragraph 14.
3. Regarding applicant's argument that Lehman fails to describe, teach or suggest the locking at least one resource of the one resource and the another resource using type of locking strategy, in response to the determining indicating the relationship is a containment-based relationship or a reference-based relationship, the examiner disagrees. Lehman discloses that locks are placed by the inserter according to a well-ordering on the nodes (page 663, paragraphs 11 - 21 and page 651, paragraph 8). In other words, different ways of locking are placed on the nodes according to the order of the nodes (relationship). Furthermore, Lehman uses at least one lock and at most a constant number of locks (three) at any time (page 668, paragraph 9 - 10). Therefore, it would have been obvious for one of an ordinary skill in the art, at the time the invention was made, to utilize Lehman's teaching for the step of using different type of locking strategies as claimed to achieve the desire outcome because of its functional equivalent.
4. Regarding applicant's argument that Lehman fails to describe, teach or suggest the types of locking strategy comprises a chained locking strategy, and a reference-based locking strategy, the examiner disagrees. Lehman discloses the types of locking strategy on page 656, paragraph 3, page 657, paragraph 5 and page 663, paragraph 15.
5. In response to applicant's argument that the combination of Lehman and any of the applied references is improper, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).
6. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for the rejections are found, either in the references, or in the knowledge generally available to one of ordinary skill in the art.